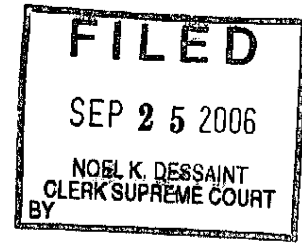


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BEFORE THE ARIZONA SUPREME COURT

PETITION TO AMEND RULE 1.6 OF
THE ARIZONA RULES OF
CRIMINAL PROCEDURE

Supreme Court

No. R-06-00 *16*

PETITION TO AMEND RULE 1.6 OF THE ARIZONA RULES OF
CRIMINAL PROCEDURE

The Pima County Attorney hereby petitions the Court, pursuant to Rule 28, Ariz. R. S.Ct., to amend Rule 1.6 of the Arizona Rules of Criminal Procedure to provide for appearances by defendants via videoconferencing for initial appearances, arraignments, and some other hearings. The specific language of the proposed amendments to Rule 1.6 is set forth in Exhibit A below.

Permitting criminal defendants to appear by videoconferencing at initial appearances, arraignments and some other hearings besides trials, will expedite scheduling of such court appearances, reduce the expense of transporting defendants, and enhance courthouse security. Videoconferencing would not be used for trials, evidentiary hearings, probation hearings, or sentencings.

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Deputy Clerk
C of A, Div. 2, Tucson

1 In some jurisdictions, arrested individuals must wait for transportation to be
2 scheduled between their detention center and the court house in order to attend their initial
3 appearance. The transportation may cause delays in bringing an arrested person before a
4 judge simply because there are only a limited number of vehicles and officers to transport
5 arrested individuals. By permitting video conferencing from the prison/detention center, the
6 arrested individual can be assured of prompt court participation so that he or she is
7 immediately advised of the charges pending. In Pima County, the initial appearances are
8 held at the jail, and magistrates are required to enter the jail. This presents major security
9 and safety concerns not only for the magistrates, but for attorneys and staff.

10 With videoconferencing, arrested individuals still would have the opportunity to have
11 counsel present with them at the jail/detention facility, thus assuring their right to counsel.
12 They would be able to communicate with the judge in real time, using videoconferencing
13 equipment. The two-way transmission would permit the judge and the arrested individual to
14 see and hear each other.

15 Transporting arrested individuals to appear at court for initial appearances,
16 arraignments, and other hearings (such as scheduling) is a significant expense on county and
17 state law enforcement agencies. By providing court attendance electronically, law
18 enforcement agencies may reduce their expenses while still affording defendants prompt
19 court participation.

20 Videoconferencing also will enhance courthouse security by reducing the need for
21 additional law enforcement personnel simply to bring defendants through the courthouse.

22 Defendants will not have their right to trial affected by videoconferencing. In fact,
23 using audio-visual conferencing from the jail to the courthouse will, as mentioned above,
24 expedite initial appearances and arraignments, such that there is less chance of an
25 unreasonable delay occurring between the time someone is arrested and the time when he or
26 she is charged. By affording arrested individuals videoconferencing directly to the courts,

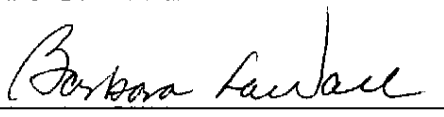
1 the arrested individuals will avoid the possibility of unreasonable delay in processing charges
2 against them.

3 Videoconferencing of defendants is used for these purposes in other jurisdictions.
4 *See, e.g.,* Rule 5.1, D.Ak. LCrR 5.1 (2005); Del. J. P. Ct. Crim. R. 10 (2005); Iowa R. Crim.
5 P. 2.27 (2005); Wis. Stat. § 967.08 (2006). These jurisdictions regularly use
6 videoconferencing for initial appearances and arraignments, without incident or procedural
7 difficulties.

8 For the reasons set forth above, the Pima County Attorney respectfully petitions this
9 Court to amend Rule 1.6 of the Arizona Rules of Criminal Procedure, as set forth in Exhibit
10 A below.

11 **RESPECTFULLY SUBMITTED** this 18th day of Sept 2006.

12
13 **PIMA COUNTY**
ATTORNEY

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15 _____
16 Barbara LaWall
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3 Original and six copies filed
4 with the Clerk of the Supreme
5 Court of Arizona this 21 day
6 of ~~Sept.~~ 2006.

7 By: Am Knudsen
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EXHIBIT A

Rule 1.6 Interactive Audio and Audiovisual Devices

a. General Provisions. When the appearance of a defendant or counsel is required in any court, subject to the provisions of this rule, the appearance may be made by the use of an interactive audiovisual device, including video conferencing equipment. An interactive audiovisual device shall at a minimum operate so as to enable the court and all parties to view and converse with each other simultaneously.

b. Requirements. In utilizing an interactive audiovisual device the following are required:

(1) A full record of the proceedings shall be made as provided in applicable statutes and rules; and

(2) The court shall determine that the defendant knowingly, intelligently and voluntarily agrees to appear at the proceeding by an interactive audiovisual device; and

(3) Provisions shall be made to allow for confidential communications between the defendant and counsel prior to and during the proceeding; and

(4) Provisions shall be made to allow a victim a means to view the proceedings; and

(5) Provisions shall be made to ensure compliance with all victims' rights laws.

c. Proceedings. Appearance by interactive audiovisual device, including video conferencing, shall be permitted at any hearing, including initial appearance, arraignment, ~~shall be permitted in the discretion of the court and at any other court proceeding~~ except that:

(1) ~~Written stipulation of the parties is required in all proceedings prior to the commencement of the proceeding, except in initial appearances and not guilty arraignments; and~~

(2) (1) This Rule 1.6 shall not apply to any trial, evidentiary hearing or probation violation hearing; and

(3) (2) This Rule 1.6 shall not apply to any felony sentencing.